

**BOROUGH OF WIND GAP
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The Council meeting of the Borough of Wind Gap on Tuesday, August 9, 2011, was called to order at 7:30 p.m. by Council President, Scott Parsons, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: John Maher, Dave Hess, Joe Weaver and Tony Curcio. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher and Borough Administrator Louise Firestone. Absent was Councilman Kerry Gassler. Councilman George Hinton arrived at the meeting at 8:00 p.m.

PUBLIC COMMENT

1. Lucy Flinn distributed a memo to Council regarding discussing the possibility of purchasing new Christmas lights for the Borough. Lucy stated that the Christmas lights are in Frackville and are being sold. There are 40 lights at \$50 each for a total of \$2,000, but if they were purchased new the cost would be \$385 per light. She hopes that she could get 20 local business owners to donate \$100 each or 10 business owners to donate \$200 each to cover the cost of the decorations. She spoke to the municipality and the lights they are selling are in good shape. She contacted Rick Snyder at Rileigh's Outdoor Décor who confirmed the price of the lights at \$385 new. He also verified that they take good care of their lights. The lights are in Frackville which is approximately 90 minutes away. Dave reported that the Borough might need to purchase new brackets if the brackets are not interchangeable. The lights are red poinsettias which are made of tinsel. Council discussed where the money will come from in the budget. It was decided that the funds would be spent out of the Buildings and Grounds budget and if donations are made the funds will be replenished.

On motion by John Maher to authorize Borough representatives (Lucy Flinn and Dave Hess) to make a bid Not-to-Exceed \$2,000 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

2. Judy Piper, resident of Pen Argyl, representing Blue Mountain Community Library as the Treasurer. She also introduced Susan Pysher, President of the Library. Judy thanked Council for their generous support of the Library over the past years and also this year. They are very appreciative of what the Borough sends in support. They are thankful for whatever funds are sent to the Library to help keep them alive. She distributed an informational sheet regarding the Library. They started a newsletter this year to keep the residents informed. The Library Board consists of three residents from each of the school district municipalities for a total of nine members. Lisa Farnan is the Library Manager and has 45 volunteers to help her operate the library. Their hours of operation are Monday through Saturday, 10:00 a.m. to 12:00 p.m. and Monday through Thursday, 6:00 p.m. to 8:00 p.m. They have over 20,000 items including books, children's videos, adult books on tape and magazines. Membership is free for residents of the Pen Argyl School District which currently is 5,020 members. The Library has several programs including: story hour for children on Wednesday and Thursday mornings, a book discussion on the third Tuesday of the month, "Meet the Author" night during March and they run the summer reading program for the school district. They did a 2010 mail campaign to graduates of Pen Argyl High School who live outside the school district and collected \$3,860 in donations. Scott stated that the Borough has donated 2% of the tipping fees received from

Waste Management. Judy informed Council that the Library has a website www.bmcl.org. She stated that the Library is well and is continuing to grow. They are planning a celebration in September to honor twenty years of operation.

3. Evanne Maher asked about the progress regarding the Property Maintenance Code. Scott stated that that topic is on the agenda tonight for discussion. Evanne asked if it will be on the Borough's website once it is an adopted ordinance. John stated that the code is a proprietary document and he is currently researching the ability to post the entire document.

4. Mitchell D. Mogilski, Sr., former Mayor of Wind Gap, stated that Mayor Shoemaker contacted him regarding information related to Derek Holland, a Borough resident who was killed in action in Afghanistan, several years ago. Mitch stated that the information was forwarded to the Borough.

Mitch currently sits on the Civil Service Commission and gave Council an update on the recent Civil Service testing for a full-time police officer. This past Saturday, the verbal testing was conducted by three Police Chiefs. The Commission is hoping to have the top three candidates to Council for the September 6, 2011 meeting. They have the final results from the written and agility tests, but they are waiting on the verbal test scores before compiling the final list. Council must send the potential candidate for psychological and medical testing.

Mitch expressed his concern regarding discussions by Council to purchase real estate property at this time. He does not feel with the current economic conditions that the Borough should undertake that type of debt. He stated that on the Express-Times website that there are municipalities who did research on the number of properties delinquent with their taxes and that number is almost 30%.

Mitch stated that he spoke to Ron Karasek prior to the meeting on a topic and Mr. Karasek suggested that it be discussed during an Executive Session.

EXECUTIVE SESSION

Council adjourned to Executive Session at 7:55 p.m. to discuss personnel issues involving Civil Service. Council reconvened at 8:00 p.m.

Council President Scott Parsons informed those present that no action would be taken at this time.

APPROVAL OF EXPENSES

On motion by Tony Curcio to approve the expenses for the month of August in the amount of \$23,918.64 and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

COMMITTEE REPORTS

1. EMS – Kerry Gassler was absent.
2. Fire Co. – Dave Hess reported that the Fire Company had not met yet this month.
3. Zoning – Tony Curcio reported that no Zoning Hearing Board will be held in September.
4. Planning - Scott Parsons reported that no Planning Commission meeting will be held in September. Ron Karasek reported that he received correspondence regarding NAPER Development, but after reviewing the information it was only provided to the Borough for reference because it is addressed to Plainfield Township.

5. Municipal Authority – John Maher reported that he attended the last meeting of the Municipal Authority. There was a discussion regarding the perceived communication problem with the Borough. John sent a letter to the Authority and suggested that a member of the Municipal Authority attend the mid-month Council meeting every month to have information first hand. Scott stated that he spoke to Chairman Ralph Stampone regarding the past lawsuit. As part of the resolution of the lawsuit, one of the five points was that each body has a liaison go to each other's meetings. After the first two years of having a member attend, Scott and Russ decided that there was no reason to continue doing this because no street work or sewer work was being done in the Borough. Scott spoke to Ralph and suggested that once again the liaison be in attendance at each meeting. George added that a meeting was held in the alley; Brian, John and George met with the Authority. During that meeting, several topics were discussed including the necessity of getting permits even though no fee would be charged, the Borough's plan to pave A, Oak, Genoga and Utica this year. The Authority was asked to look at those streets in case they had any work that needed done it could be coordinated with the Borough's paving projects. Scott offered to attend the next meeting along with John Maher.

6. Streets – George Hinton reported that the Street workers have been painting lines, cutting grass, weed whacking and completing the court project at Wind Gap Park.

7. Police – Mayor Shoemaker reported that the Police Department responded to 186 calls for the month of July, they responded to 7 animal complaints, 11 motor vehicle accidents; the police issued 20 traffic citations and 1 parking ticket.

8. Park – Joe Weaver reported that the Park Board is meeting tonight. Joe stated that prior to the courts project the tennis courts were painted and the question has come up as to whether or not they will be repainted. He reported that since this has already been discussed and they are not to be painted, the Park Board may want to paint them in the future. Joe asked for the status of the refreshment stand. Brian Pysher responded that prior to the project going out for bid; he contacted the Wind Gap Athletic Association to find out what their Association was going to contribute to the project either in the way of money or in-kind services. Brian stated that he really never had any contact with the AA until the project was almost completed and then he was asked what they could contribute. The only thing left was the concession stand. The AA indicated that they have several members who are carpenters and it was Brian's understanding that the construction of the stand would constitute their contribution. George added that the cost of material to build the stand would be approximately \$1,000 which would still leave them a shortfall of \$9,000. Trying to come up with in-kind services will be difficult. George offered the time that he spent with the project and the cost of the materials that he paid for to install the electrical line that was run to the proposed stand to be donated to the AA as part of their in-kind service amounts. It was suggested that Joe contact Tony to set up a meeting to discuss the construction of the shed. George thanked John Maher for his diligence for getting the cameras purchased and up and running. John stated that the cameras for the tennis courts and basketball courts are done. John stated that his time could be used toward the AA's in-kind services as well.

John was working on the cameras over the weekend. While he was at the Park he noticed that the gate was left unlocked which allowed cars to come and go in the Park. A better arrangement has to be made during the concert to allow the band members to unload their equipment and then move their cars to the parking lot. While he was installing the cameras up by the big kitchen, a car that had driven into the park area backed into the spigot by the water fountain and broke it. John repaired the damage spigot, but the car could have done more damage. Joe added that a decision has to be made, if no cars allowed then that means no cars. A car was in the park this morning and he just drove right around the gate. John suggested that a uniformed police officer be present in the Park during concerts. Joe informed Council that the park board is discussing updating the park

ordinance and advised that park hours should be included in the ordinance. Scott concluded by stating that the ordinance needs to be updated, the police need to be provided a list of events in the park, and the fines need to be posted. John reported that he was instructed to review the security systems in the park: 2 recorders, 3 cameras (one turned out to be broken), the recorders will be on line, he installed four cameras on the large kitchen, and the recorder and it is now recording and storing information. The basketball court security system is operational. The cost of the equipment was \$300 for the basketball and tennis courts and the rest of the park currently totals approximately \$1,000. All of the burnt out lights have been replaced in the park.

9. 911 – Tony Curcio had nothing to report.

10. Tipping Fees - Tony Curcio had nothing to report.

11. Property Maintenance Code – Scott Parsons stated that the Property Maintenance Code will be discussed under Old Business.

12. Building Finance Committee – John Maher reported that he sent revisions to the contract to the real estate agent that included Mr. Karasek's comments. John provided Council with a copy of the changes.

MAYOR'S REPORT

Mayor Shoemaker reported that the Borough received a thank card from the family of former Mayor Joseph Dell'Alba. The Mayor reported that the Slate Belt Council of Government will resume their meeting schedule in September. The memorial stone is in stock at Owens Monument for Derek Holland. A memorial ceremony will be held when the stone is placed at the monument. Scott asked about a COG picnic, he believes that it is scheduled for August 24 at Pen Argyl Park. Scott asked the Mayor to verify the date and inform Council should they be interested in attending.

SOLICITOR'S REPORT

Ron Karasek reported that all the matters being handled by his law office for the Borough during the month of July are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: Preparation of Comprehensive Enclosure Correspondence to Client, Review of Subdivision Improvements Agreement regarding Required Improvements and fax transmission to Borough and Borough Engineer re: Completion of Required Improvements in Gap View Estates f/k/a Posh Properties Major Subdivision.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Receipt, Review and Administration of Listing Contracts and Preparation of Comprehensive Memorandum to Borough re: 435 North Broadway and North Lehigh Avenue.

Receipt, Review and Administration of fax transmission from Borough Engineer, Review of ZHB Decision (October 1979) – Zoning Decision/Order (May 7, 1979) and Preparation of Comprehensive Status Correspondence to Borough Zoning/Planning Officer (by fax transmission only) re Brown Daub Site Plan.

Preparation of Memorandum to Borough re: proposed changes to Zoning Ordinance and Preparation of Enclosure Correspondence re: C.O.s, Home Occupation and Clear Site Triangle.

Developments on Outstanding Litigation: Receipt, Review and Administration of final draft of Stipulation of Counsel, Signature to Stipulation and Preparation of Comprehensive Correspondence re: Settlement of PPL/Cell Tower Lawsuit. Receipt, Review and Administration of e-mail from

Attorney Barish, Review of Petition to Withdraw as Counsel (and proposed Order of Court) and Preparation of Enclosure Correspondence to Borough.

Court Decisions on Borough Cases: N/A.

Miscellaneous: Preparation of Repeal of Ordinance No. 81 (Borough Fire Department). Legal Research and Preparation of Resolution for Borough Tax Collector to Assess an Administrative Charge to Real Estate Tax Certifications. Preparation of Monthly Solicitor's Report.

Outstanding Items: Dentith storm water counterclaim (filed in response to Borough's injunction lawsuit and request for Borough's expenses) – no action taken and remains pending. Ordinance for loitering, begging and panhandling – pending but inactive. Ordinance for reimbursement of equipment, materials and supplies in responding to environmental, hazardous, safety or rescue events (police, fire or both?) – pending but inactive.

Ron stated that he provided Council with a copy of Resolution 2011-04 allowing the Tax Collector to reimburse her cost and expenses for the issuance of real estate tax certifications. Mrs. Sutter has reviewed the resolution and has given her approval. This resolution can be discussed this evening.

After last month's meeting, Ron sent Council a proposed draft of the ordinance that would repeal Borough Ordinance 81 which deals with the Fire Department. That ordinance should be conditioned upon the Fire Company amending its constitution and by-laws to either repeal, revise and/or re-write certain provisions that specifically deal with Ordinance No. 81.

Ron sent a memo outlining proposed zoning changes that were discussed by the Borough committee on June 17, 2011. These issues included: Certificate of Occupancy, Home Occupation or Home Business, and Clear Site Triangles. Assuming Borough Council wishes accept the recommendations and make those changes, Ron will forward those changes to Lehigh Valley Planning Commission for review, and the Borough Planning Commission must accept those changes to the ordinance.

The Property Maintenance Code must be discussed relating to which edition will be used as referenced by an ordinance.

Ron made final changes to the Street Opening Ordinance and Council has a current copy of that ordinance. He will await Council's authorization to advertise this stand alone ordinance.

Ron received notification of a hearing date for the real estate tax exemption for the property on West Avenue/West Street. That hearing is scheduled for Monday, August 29, 2011 at 9:30 a.m. in the Northampton County Council Chambers. He asked that a representative from the Borough be in attendance at the hearing to answer questions, should there be any.

He has not seen the current update for the real estate listing contract.

Scott asked Council if they have had sufficient time to review the recommendations regarding the proposed zoning amendment. Ron explained that the Borough must adopt different language in the present zoning ordinance Section 802,B and re-name or re-title the present Certificate of Occupancy (CO) as a CO for Zoning Purposes or Certificate of Compliance (CC) for Zoning Purposes. Ron explained that the present "home occupation" is not definitive enough and the recommendation is to establish two types of "home occupation", one being a "no-impact home-based business" and the other being an "impact home-based business". The third change is clear site triangle. The Borough Engineer believes that it is difficult for many homeowners to meet present clear sight triangle requirements. He recommends that the triangles meet PennDOT standards. The committee included: Tony Curcio, Zoning Officer, Darlene Plank, Brian Pysher and Ron Karasek.

On motion by Tony Curcio to authorize our Solicitor send a letter to the Lehigh Valley Planning Commission regarding the changes in the Zoning Ordinance related to "Certificate of Occupancy", "Home Occupation" and the "Clear Site Triangle" and seconded by Dave Hess. Roll call vote taken. Motion carried unanimously.

A resolution must be passed to update the zoning map which was proven to be incorrect for the land currently occupied by Brown Daub automobile dealership. An ordinance has shown that the map does not have the correct zoning district for their land.

ENGINEER'S REPORT

Brian Pysher asked Council if they have had time to review the request for payment from Muschlitz Excavating for the park project. Brian explained that when the project was initially discussed the courts were covered with snow. It was noticed prior to the start of the project that there were numerous cracks in the middle of the tennis courts that had to be milled and patched prior to paving, the swale down the middle had to be paved, and small items such as extra curbing. Brian asked if anyone had questions, if not, he recommends approving payment. Once this has been paid, proof of payment has to be submitted to the County for reimbursement under the Open Space Initiative Grant.

On motion by George Hinton to approve payment to Muschlitz Excavating in the amount of \$82,578.50 for the Wind Gap Park Court Project and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Brian reported that a meeting was held with Rich Webber, Met-Ed, regarding the bus shelters. It was determined during the site meeting that at each location, the primary line is on the east side of Broadway. A wire has to be run from the east side to the west side and down the pole, but the Borough is responsible for providing the pedestal and conduit. Rich sent the proposal for Met-Ed's charge to the Borough in the amount of \$1,400 each. Council will table this issue until September.

Brian stated that at the last meeting he was going to include the paving of "F" alley in the Oak and Genoga paving project. The cost should be less than \$4,000 which would only require phone quotes. If the paving is included in the paving project, prevailing wage will apply and increase the cost of repaving the small portion of the alley.

On motion by George Hinton to approve the paving of "F" alley with a Not-to-Exceed amount of \$4,000 and seconded by John Maher. Roll call vote taken.

Brian reported that he attempted to contact Pete Iselo, Gibraltar Development, to set up a meeting with the adjacent property owner, Alex Cortezzo. Brian made contact with Gibraltar Development workers at the site and asked them to relay the message to Mr. Iselo. Ron added that he reviewed the Gap View Estates Major Subdivision completion of the required improvements following last month's meeting. He sent a letter to Borough Council stating that pursuant to the Subdivision Improvements Agreement entered into between the Borough and the Developer dated June 9, 2009, all required improvements were to be completed within two (2) years from the agreement date (which would be June 9, 2011). Accordingly, it would appear that the Borough could take action against Gibraltar for failing to complete the improvements by calling in the performance security. Ron did explain to Council that Act 46 of 2010 states development permits, authorizations and agreements that were approved (after December 31, 2008) will have an extension period until July 2, 2013. Ron does not believe that Act would apply to the facts of this case for the completion of required improvements; it is difficult to predict how the Act would be interpreted. If Council does decide to call in the letter of credit the Borough must confirm that the letter is still in full force and the Borough Engineer should inspect the project to determine what additional required improvements need to be completed and the cost of the improvements. These steps need to be done prior to a letter being sent to the Developer giving him a final opportunity to correct or remediate the issues.

On motion by George Hinton that Borough Council initiates the process to call in the Letter of Credit from Gibraltar Development which includes, confirming the letter of credit is still in full force and authorize the Borough Engineer to inspect the project prior to the Borough Solicitor sending notice to the developer asking that the proper steps requiring the project to get back on schedule and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

Street Paving Project Award (Oak and Genoga). Brian reported that he the project for street paving was advertised, four contractors picked up the specs, and three contractors bid on the project.

Bracalente Construction	\$63,826.55
Eastern Industries	\$78,974.00
Lehigh Valley Site Contractors	\$63,004.80

Brian reviewed the bid specifications and the numbers all checked out, all the necessary paperwork was included so he recommends awarding the bid to the low bidder, Lehigh Valley Site Contractors.

On motion by George Hinton to award the street paving project for Oak Street and Genoga Street to Lehigh Valley Site Contractors in the amount of \$63,004.80 and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

Brian will contact Lehigh Valley Site tomorrow to discuss the time schedule for this project. George added that the street committee wanted to complete street work on A Street and Utica Avenue, but because those street directly connect to a state road. When a borough street connects to a state road, PennDOT requires the intersection to be ADA compliant with handicap ramps. The approval must go through PennDOT prior to ramp installation which is prior to street improvements. The state is in the process of improving the Route 33 Interchange and that project includes road work up passed A Street so the state will be improving that intersection to include handicap ramps. The Borough has decided to wait to upgrade A Street until the work has been done. Brian added that they have designed the intersection at Utica and those designs will be submitted to PennDOT shortly.

NEW BUSINESS

1. Approval July 12, 2011 Council meeting minutes. Council will take action on these minutes at the next meeting.

OLD BUSINESS

1. Property Maintenance Code Ordinance. Scott provided Councilman Gassler with a copy of the Property Maintenance Code for his review. Ron stated that the ordinance should specifically identify the Property Maintenance Code (PMC) by year. Scott said that the ordinance should specify 2009 which is the current version. Council discussed some of the specifics of the PMC and would regulations be too stringent. The Borough would be obligated to have an appeals board for individuals to contest any regulations being imposed on their property. The Slate Belt Council of Governments (COG) has an appeal board. Ron suggested reviewing the index and find topics that are of interest and then read those parts of the PMC to determine how specific the code is written. Joe expressed concern about universally enforcing the code throughout the Borough. Scott stated that there are issues with properties in the Borough that Council can do nothing about because the Borough does not have a code to enforce. Representatives from both Bangor and Pen Argyl stated that those Boroughs do not go out looking for properties to enforce, but if a property becomes an issue the Borough has a code that has to be followed. The Zoning Officer in Bangor, who also does the code enforcement, only works part-time to cover both positions because he only responds to complaints about properties. The Borough office receives complaints regarding the condition of rental properties, but right now the Borough cannot get involved because there is no code. Discussion regarding the proprietary rights of the company who produces the PMC document. Council decided to allow more time for all Council to review the document. Dave asked if the Zoning Officer has to be certified to be the Code Enforcement Officer. Scott replied that there is an on-line test available and the committee would recommend that the Borough Engineer also be certified. Council discussed authorizing the Borough Solicitor to begin the process of advertising this for the September 20, 2011 Council workshop meeting.

2. Resolution 2011-04 Tax Collector Reimbursement of Fees. Ron stated that he prepared the resolution to make clear that this is not an increase of compensation of the Tax Collector, but this is just a reimbursement of cost of a \$5.00 and \$15.00 fee for real estate settlement or a mortgage to banks or lending institutes. Mrs. Sutter has reviewed the proposed resolution and has given her endorsement of the document.

On motion by John Maher to adopt Resolution 2011-04 for the Establishment of Charges for the Borough Tax Collector for real estate tax certifications and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

EXECUTIVE SESSION

Council adjourned to Executive Session at 9:25 p.m. to discuss the street workers contract and real estate issues.

Council President Scott Parsons informed those present that no action would be taken at this time.

On motion by Tony Curcio to adjourn the meeting of August 9, 2011 and seconded by John Maher. Council agreed unanimously.

The meeting of August 9, 2011 adjourned at 9:35 p.m.

Louise Firestone, Borough Administrator